

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

. In the Matter of:

APPLICATION OF CONTEL CELLULAR OF	)	
KENTUCKY, INC. FOR ISSUANCE OF A	)	
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	
NECESSITY TO CONSTRUCT AN ADDITIONAL	)	
CELL FACILITY IN THE KENTUCKY RURAL	)	CASE NO. 95-121
SERVICE AREA NO. 7 WHICH INCLUDES	)	
TRIMBLE, CARROLL, GALLATIN, HENRY,	)	
FRANKLIN, OWEN, GRANT, PENDLETON,	)	
HARRISON, AND SHELBY COUNTIES IN	)	
KENTUCKY (THE ST. MARY CELL FACILITY)	)	

O R D E R

On March 24, 1995, Contel Cellular of Kentucky, Inc. ("Contel Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications antenna tower in Rural Service Area No. 7 ("RSA No. 7"). The proposed cell site consists of a self-supporting antenna tower not to exceed 260 feet in height, with attached antennas, to be located at 396 Old Harrodsburg Road, Frankfort, Franklin County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 09' 19" by West Longitude 84° 54' 05".

Contel Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code, with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the proposed cell site's construction is exempt from local zoning ordinances. However, Contel Cellular has notified the Franklin County Planning and Zoning Commission of the proposed construction. Contel Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the proposed cell site. Both decisions are pending.

Contel Cellular has filed notices verifying that each person who owns property or resides within 500 feet of the proposed cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners and residents of their right to intervene. The Commission received one protest letter from a property owner but no request to intervene was filed. In an attempt to address a concern expressed in the letter, Contel Cellular amended its application on May 17, 1995, moving the location of the tower within the lease area an additional 15 feet from the protestor's property. The protestor filed an additional letter on May 22, 1995 which appeared to express his continued dissatisfaction with the proposed construction. On May 24, 1995, Don Mills, Executive Director of the Commission, sent a letter to the protestor stating that if the protestor wished full intervention and a public hearing, he must file a written request so stating within 10 days. No request to intervene was received, and the case was submitted to the Commission for a decision.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Contel Cellular should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Contel Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Contel Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site in RSA No. 7 under its currently approved tariff.

IT IS THEREFORE ORDERED that:

1. Contel Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate a self-supporting antenna tower not to exceed 260 feet in height, with attached antennas, to be located at 396 Old Harrodsburg Road, Frankfort, Franklin County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 09' 19" by West Longitude 84° 54' 05".

2. Contel Cellular shall file a copy of the final decisions regarding its pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.

3. Contel Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 29th day of June, 1995.

By the Commission

ATTEST:

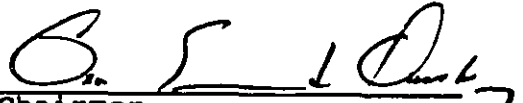
  
Executive Director

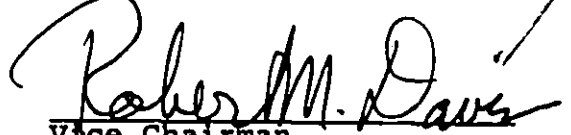
2. Contel Cellular shall file a copy of the final decisions regarding its pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.

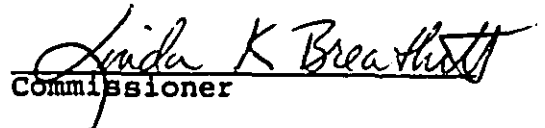
3. Contel Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 29th day of June, 1995.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director